IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.Rev.Pet.No. 245 of 2002()

CRA.2/1993 of SESSIONS COURT, PATHANAMTHITTA
CC.397/1989 of JUDL.MAGISTRATE OF FIRST CLASS COURT, RANNI

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REVN. PETITIONER: REVN. PETITIONER/APPELLANT/ACCUSED;

KUTTAPPAN, S/O. MADHAVAN,
KALLURUMPIL VEEDU, OLAKULAM, KOLLAMULA MURI,
KOLLAMULA VILLAGE, RANNI TALUK.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENTS: RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA, REP. BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.1905/2002 IN CRL.R.P. NO.245/2002

DISMISSED

SD/- K.R.UDAYABHANU, JUDGE

17/08/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.245 of 2002 -A &
Crl.R.C.No.14/2002

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Dated this the 17th day of August, 2007

O R D E R

The revision was taken suo moto as it appeared that the sentence imposed is not adequate. Crl.R.P.No.245/2002 was filed by the accused.

2. The revision petitioner stands convicted for the offence under Section 326 I.P.C and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.500/- and in default to undergo simple imprisonment for two months. The fine if realised was directed to be given to PW.1.

3. The prosecution case is that the accused on 19/08/1989 at 11.45 a.m in the pathway near the rubber nursery of Puthuparambil Devasya inflicted injuries on the right hand of PW.1 resulting in fracture of the neck of humerus. The evidence adduced in the matter consisted of the testimony of PWs.1 to 9 and Exts.P1 to P7. PW.1, the injured and PW.2 the occurrence witness has testified in

support of the prosecution case. PWs.3 and 5, although cited as occurrence witnesses, turned hostile. PW.7, the doctor who issued Ext.P6 wound certificate has testified in proof of the same. The injuries sustained are noted by the trial court judge as follows:-

> "(1) Swelling in front of right shoulder.
> (2) Crepitation on the neck of the right humerus.
> (3) X-Ray right shoulder showed fracture of the neck of humerus."

And the cause of the injuries noted in Ext.P6 is as hit by stone.

4. I find that no contradiction or omission with respect to the previous statements of PWs.1 and 2 has been brought out. In the circumstances and in view of the concurrent findings of the courts below, I find no reason to interfere with the findings. The conviction is confirmed.

5. The counsel for the revision petitioner has pleaded for leniency pointing out that about 18 years have elapsed since the date of the incident and that so far the accused was facing the criminal proceedings. It is also stated that the accused/revision petitioner is right now aged 62 years.

6. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of rupees twenty thousand to PW.1, if alive, or to his legal representatives and in default, to undergo simple imprisonment for six months. The revision petitioner is granted four months time to remit the compensation amount. He shall appear before the Judicial Magistrate of the First Class, Ranny, on 12/12/2007 to receive the sentence. The criminal revision petition is disposed of as above.

In view of the fact that so many years have elapsed since commencement of the proceedings, the suo moto revision taken is closed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.245 of 2002 -A
& Crl.R.C.No.14/2002

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O R D E R

17th August, 2007